

## **REMARKS/ARGUMENTS**

### **Status of the Claims**

Claims 5-7, 9, 11, and 13 have been cancelled.

Claims 1-4, 8, 10, and 12 have been previously cancelled.

Claims 14-24 have been added.

### **Claim rejections under 35 U.S.C. § 103(a)**

Claims 5-7, 9, and 13 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. No. 3,919,721 (Earhart) in view of U.S. Patent No. 5,245,717 (Rudy), and in view of U.S. Patent No. 4,535,481 (Ruth-Larson et. al.), with the Examiner taking the position that:

In reference to claim 5, Earhart discloses a blanket comprising: a substantially rectangular blanket 10 having a first surface and a second surface, said blanket having opposing first and second side edges and opposing top and bottom edges which are shorter than said opposing side edges, said blanket having a half portion of said blanket adjacent to said top edge of said blanket, said blanket having a middle third portion;

a foot pocket 19 comprising a panel having two opposing first and second edges and two opposing top and bottom edges, said pocket panel being connected to said blanket at said first edge, second edge and bottom edge of said pocket panel, said bottom edge of said pocket panel coinciding with both the middle third portion of said blanket and the bottom edge of said blanket for warming feet.

Earhart discloses all of the Applicant's claimed limitations except for a pair of sleeves. Rudy discloses a blanket having a pair of sleeves 120 having apertures 111 defined at a shoulder end. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ sleeves in order to prevent any cooling discomfort of the arms and shoulders.

Earhart also fails to disclose the apertures having an oblong shape.

Rurth-Larson [sic] discloses sleeves having oblong shaped apertures (fig. 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have the apertures of Earhart with an oblong shape in order to allow greater freedom of movement for a persons [sic] arms.

Regarding claims 6-7, Ruth-Larson discloses sleeves having oblong shaped apertures having a vertical orientation and an oblique orientation relative to a horizontal center line (fig. 2).

Regarding claim 9, wherein the sleeve apertures are spaced along the horizontal center line (fig. 1-2)(Ruth-Larson).

In reference to claim 13, Earhart discloses a blanket comprising: a substantially rectangular blanket 10 having a first surface and a second surface, said blanket having opposing first and second side edges and opposing top and bottom edges which are shorter than said two opposing side edges, said blanket having a half portion of said blanket adjacent to said top edge of said blanket, said blanket having a middle third portion.

Earhart discloses all of the Applicant's claimed limitations except for a pair of sleeves and sleeve apertures. Rudy discloses a blanket having a pair of sleeves 120 having apertures 111 defined at a shoulder end. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ sleeves in order to prevent any cooling discomfort of the arms and shoulders.

Earhart also fails to disclose the apertures having an oblong shape and being disposed close enough to each other to provide for anterior insertion of the user's arms. Ruth-Larson discloses sleeves having oblong shaped apertures being disposed close enough to each other to provide for anterior insertion of the user's arms (fig. 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ oblong shaped apertures disposed closes [sic] enough to each other in order to allow greater freemom [sic] of movement for a person arms.

(spacing between sentences of rejection added for clarity).

Applicant respectfully disagrees. A brief discussion of the prior art will be helpful. Earhart discloses in lines 5-7 of column 2, a lap robe of the type to be "used to keep a person warm when seated outdoors in cold weather." (emphasis added). Earhart also discloses, in lines 27-28 of column 1 that her lap robe is "of a size sufficient to cover the

lap and legs of a seated person". (emphasis added). Earhart's lap robe includes a first pocket 16 that "... forms a convenient pocket for warming the hands as it is located on the outside of the robe 10 and in the area of the wearer's lap" (see lines 56-60 of column 1). Earhart also discloses a second pocket 19, which are designed to receive the feet and legs of a person using the robe.

More importantly, however, is what Earhart does not show or disclose. Earhart does not show a substantially rectangular blanket, as recited in newly submitted claims 14 and 20. What Earhart does show is a trapezoidally shaped blanket having a bottom that is significantly wider than its top.

Earhart does not show or disclose a middle portion that extends the length of her blanket, and which is wholly divisible into the width of the blanket, as recited in newly submitted claims 14 and 20. Rather, Earhart only shows a cut line that is used to identify the location of a cross-sectional view (figure 2) of her blanket.

Earhart does not show or disclose a pocket that is substantially the same width as the middle portion of her blanket. This is because she has not identified the middle portion of her blanket. Rather, Earhart shows a large, oversized pocket that extends substantially along the width of her blanket.

Earhart does not show or disclose that the top edge and the bottom edge of her pocket are substantially the same length, as recited in newly submitted claim 14. Rather, Earhart's pocket has a top edge that is substantially longer than the bottom edge. Moreover, Earhart provides her top edge with an elastic band of material that shirrs the material therealong.

Earhart's does not show or disclose that her lap robe is convertible into a pillow, as recited in newly submitted claims 14 and 20. The reason for this is most likely because the lap robe is designed to be used outdoors where it can be easily soiled.

A lap robe, by definition, is “a blanket or fur piece for covering the lap, legs, and feet, as of a passenger in an unheated car or carriage”.<sup>1</sup> One would not be motivated to elongate the lap robe of Earhart and provide it with apertures and sleeves, as asserted by the Examiner, because the person who uses a lap robe will already be wearing a sleeved coat or jacket. A lap robe is designed to provide coverage for those parts of the body that are not adequately covered by a coat or jacket.

Earhart does not show or disclose any apertures that are configured and arranged to allow a user's upper appendages to extend therethrough, as recited in newly submitted claims 14 and 20. Likewise, Earhart does not show or disclose any apertures that have a particular configuration or orientation, as recited in newly submitted claims 15, 16, and 24.

Moreover, Earhard does not show or disclose any sleeve structure into which a user's upper appendages may be inserted, as recited in newly submitted claims 18, 19, 20.

Rudy discloses a relaxation article for covering the arms and shoulders of a user to prevent “uncomfortable coolness overtaking the person” in an indoor environment, such as a bedroom. The relaxation article features a flat flexible member having a plurality of sleeves, which receive the arms of a user. Note that Rudy does not show or disclose sleeves that extend away from each other when the article is arranged in a generally planar configuration.

Ruth-Larson discloses a surgical gown for high fluid procedures. This gown comprises a front panel and a pair of side panels, with sleeves joined at upper intersections of the front and side panels. A feature of the front panel is that it is flared at the bottom “... to permit the wearer to spread his legs while in a seated position without being constrained

---

<sup>1</sup> The American Heritage Dictionary: Fourth Edition, 2000.

by the gown material.” Contrary to what the Examiner asserts, Ruth-Larson does not show or disclose a horizontal center line, or any other reference line for that matter. There is no basis for making such an assertion.

It is well settled that “[c]ombining prior art references without evidence of ... a suggestion, teaching, or motivation simply takes the inventor’s disclosures as a blueprint for piecing together the prior art to defeat patentability -- the essence of hindsight”<sup>2</sup>.

There is no reason for combining the references of Earhart, Rudy, and Ruth-Larson other than the Examiner’s broad conclusory statements that “[i]t would have been obvious for one having ordinary skill in the art at the time of the invention to employ sleeves in order to prevent any cooling discomfort of the arms and shoulders” and that “[i]t would have been obvious to one having ordinary skill in the art at the time of the invention to have the apertures of Earhart with an oblong shape in order to allow greater freedom of movement for a persons [sic] arms.”

As explained above, Earhart shows and discloses a lap robe of the type to be “used to keep a person warm when seated outdoors in cold weather” and which is “of a size sufficient to cover the lap and legs of a seated person”. (emphasis added). Earhart does not show or disclose that her lap robe covers anything else other than a person’s lap and legs, and there is no suggestion or motivation to otherwise modify her robe to cover other parts of a person’s body, such as the torso and arms. This is because a person who is “seated outdoors in cold weather” would most certainly already be wearing a coat or jacket.

Similarly, there is no teaching, suggestion, or motivation to provide the lap robe of Earhart with apertures for a person’s arms and it is respectfully submitted that, contrary

---

<sup>2</sup> In re. Dembiczak, 175F3d. 994, 50 USPQ2d. 1614

to what the Examiner is asserting, it would not have been obvious "to one having ordinary skill in the art at the time of the invention to have the apertures of Earhart with an oblong shape in order to allow greater freedom of movement for a persons [sic] arms. There are no apertures in the reference of Earhart for the simple fact that a lap robe does not require apertures.

**Claim rejections under 35 U.S.C. § 103(a)**

Claim 11 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. No. 3,919,721 (Earhart) in view of U.S. Patent No. 5,245,717 (Rudy), U.S. Patent No. 4,535,481 (Ruth-Larson et. al.), and further in view of U.S. Patent No. 6,219,847 (Aikins), with the Examiner taking the position that:

In reference to claim 11, Earhart discloses a blanket comprising: a substantially rectangular blanket 10 having a first surface and a second surface, said blanket having two opposing first and second side edges and two opposing top and bottom edges which are shorter than said two opposing side edges, said blanket having a middle portion;

said blanket has a first rounded corner at the intersection of said bottom edge and said first side edge of said blanket, and said blanket has a second rounded corner at the intersection of said bottom edge and said second side edge of said blanket,

a foot pocket 19 comprising a panel having opposing first and second edges and opposing top and bottom edges, said pocket panel being connected to said blanket at said first edge, second edge and bottom edge of said pocket panel, said blanket having a half portion of said blanket adjacent to said top edge of said blanket, said bottom edge of said pocket panel coinciding with both the middle third portion of said blanket and the bottom edge of said blanket for warming feet.

Earhart discloses all of the Applicant's claimed limitations except for a pair of sleeves and sleeve apertures. Rudy discloses a blanket having a pair of sleeves 120 having apertures 111 defined at a shoulder end. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ sleeves in order to prevent any cooling discomfort of the arms and shoulders.

Earhart also fails to disclose the apertures having a vertical orientation and an oblique orientation relative to a horizontal center line. Rurth-Larson [sic] discloses sleeves having oblong shaped apertures having a vertical orientation and an oblique orientation relative to a horizontal center line (fig. 2). It would have been obvious to one having ordinary skill in the art at the time of the invention to have the apertures of Earhart with an oblong shape and vertical and oblique orientations in order to allow greater freedom of movement for a persons [sic] arms.

Earhart also fails to disclose an expandable cuff and neck portion. Aikins discloses a blanket having an expandable cuff 17 and neck portion (14-15). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ an expandable cuff and neck portion in order to cover most of the body without falling off.

(spacing between sentences of rejection added for clarity).

Applicant respectfully disagrees. Contrary to what the Examiner asserts, Aikins does not show or disclose a blanket. Rather, Aikins shows and discloses a garment that is designed and configured to be worn by a user, and which comprises a tubular body that has a neck opening and a pair of sleeves.

As explained above, Earhart does not show or disclose all of the limitations of the claims. Moreover, there is no teaching, suggestion, or motivation to modify the lap robe of Earhart to include apertures and sleeves. The Examiners assertion that "[i]t would have been obvious to one having ordinary skill in the art at the time of the invention to employ an expandable cuff and neck portion [of Aikins] in order to cover most of the body without falling off" is simply without merit.

There is no teaching, suggestion, or motivation to combine the reference of Earhart with any of the references of Rudy, Ruth-Larson, or Aikins.

## **CONCLUSION**

On the basis of the foregoing amendments, remarks, and arguments of record,

applicant respectfully submits that newly submitted claims 14-24 are in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Alternatively, if the Examiner is of the opinion that prosecution of the application may be expedited by a telephonic interview, the Examiner is invited to contact applicant's representative at the telephone number listed below.

Customer Number:

22854

Respectfully submitted,  
For the Applicant  
By their Attorneys,

MOORE, HANSEN & SUMNER  
2900 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, Minnesota 55402  
Telephone: (612) 332-8200  
Facsimile: (612) 332-1780

Date March 29, 2004

By:

James R. Hakomaki  
James R. Hakomaki  
Reg. No. 35,037